

January 5, 2018

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation; WC Docket Nos. 10-90 & 07-135; CC Docket No. 01-92

Dear Secretary Dortch:

T-Mobile USA, Inc. (T-Mobile),¹ by its attorneys, respectfully submits this response to correct false and misleading statements regarding T-Mobile contained in joint filings in the above-referenced dockets by Consolidated Communications Companies, Peerless Network, Inc. (“Peerless”), and West Telecom Services, LLC (“West”) (collectively, the “Joint Filings”)² and repeated in an *ex parte* filing by Philip J. Macres (the “December 20 Letter”).³ It is noteworthy that West, one of the participants in the Joint Filings, has already publicly disavowed inaccurate information regarding T-Mobile and suggested that the record “be reviewed and corrected as necessary.”⁴ In an unusual decision by outside counsel, Mr. Macres took issue with his client West’s disavowal of the factual inaccuracies in the Joint Filings and has demanded that T-Mobile provide more information on the record regarding its dealings with Peerless, one of the other parties participating in the Joint Filings.⁵ In the hope that setting the record straight will finally end this distracting debate and enable the Federal Communications Commission (the “Commission”) and interested parties to focus on the critical issue of reforming the intercarrier compensation (“ICC”) rules presented in this proceeding, T-Mobile provides the following information.

The Joint Filings and the December 20 Letter falsely alleged that T-Mobile refuses to establish direct connections with other carriers because it is engaged in arbitrage and that T-Mobile receives compensation or credits for access or non-access traffic routed through Inteliquent.

¹ T-Mobile USA, Inc. is a wholly-owned subsidiary of T-Mobile US, Inc., a publicly traded company.

² See Comments of Peerless Network, Inc. et al., WC Docket No. 10-90, CC Docket No. 01-92 filed Oct. 26, 2017); *see also*, Reply Comments of Peerless Network, Inc. et al., WC Docket No. 10-90, CC Docket No. 01-92 (filed Nov. 20, 2017).

³ See Letter from Philip J. Macres, Klein Law Group, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 & 07-135, CC Docket No. 01-92 (dated Dec. 20, 2017).

⁴ See Letter from Robert McCausland, VP, Regulatory and Government Affairs, West, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 & 07-135, CC Docket No. 01-92 (dated Dec. 14, 2017).

⁵ *Id.* at 4.

First, T-Mobile does not refuse to establish direct connections with other carriers. In fact, T-Mobile currently maintains direct connections with most major carriers. T-Mobile is willing to establish a direct connection with any carrier that:

- exchanges a sufficient volume of traffic with T-Mobile to justify the expense of a direct connection;
- seeks to use the direct connection solely for the exchange of traffic destined to, or originated by, its own end user customers;
- wants to exchange traffic on a bill-and-keep basis; and
- is willing to split the cost of an economically efficient direct connection.

Peerless knows that T-Mobile is willing to establish a direct connection with other carriers because Peerless itself has been in discussions with T-Mobile about establishing a direct connection for over six months. T-Mobile has made clear at all times during the discussions that it is open to establishing a direct connection with Peerless. As of the date of this letter, T-Mobile has not received any information that would cause T-Mobile to question whether a direct connection with Peerless should be established, or any indication from Peerless that it is no longer willing to discuss a direct connection.⁶ Similarly, Consolidated also has engaged in discussions with T-Mobile, regarding the establishment of a direct connection. After an in-person meeting in early 2016 during which the possibility of a direct connection between the parties was discussed, T-Mobile reached out to Consolidated to continue the conversation. Consolidated thanked T-Mobile but then subsequently did not respond.

Second, T-Mobile does not receive any revenue in the form of payments, credits, or any other type of benefit from Inteliquent or any other party for terminating any type of traffic routed through Inteliquent. The redacted contract cited in the December 20 Letter references an earlier version of the T-Mobile and Inteliquent agreement that featured basket pricing designed to protect both parties during the implementation of the agreement, and was negotiated when neither party knew when and how much traffic of various types would be routed by Inteliquent.⁷ Once the agreement was fully implemented and the uncertainty eliminated, the parties amended the agreement to eliminate the previous pricing structure. Under the current pricing structure, the volume of traffic routed through Inteliquent for termination by T-Mobile has no financial impact on T-Mobile, and thus provides T-Mobile with no opportunity for arbitrage.⁸

Finally, T-Mobile's decisions about interconnection and network topography are driven by the related goals of providing the highest quality of service possible to its customers and expediting the IP

⁶ T-Mobile is currently waiting for a response from Peerless regarding a proposed interconnection agreement involving direct connection. After months of discussions between T-Mobile and Peerless, discussions have gone quiet for reasons that are unknown to T-Mobile. In response to a status inquiry by T-Mobile, Peerless replied on August 15, 2017, that it is checking into the status and would "get back...asap." The next time T-Mobile heard from Peerless was in the first of the Joint Filings, after which T-Mobile again contacted Peerless, and Peerless re-engaged on December 5, 2017. As of the date of this filing, T-Mobile is waiting for a response from Peerless regarding the proposed agreement.

⁷ See, e.g., December 20 Letter at 2 (citing a redacted version of the agreement between T-Mobile and Inteliquent as it existed before multiple amendments). While the December 20 Letter and the Joint Filings cite allegations contained in complaints filed by CenturyLink and O1, they rely on unproven allegations from complaints that were subsequently withdrawn or resolved in favor of T-Mobile.

⁸ The agreement between T-Mobile and Inteliquent does not address the access rates of Inteliquent, which remain solely within Inteliquent's control.

Transition so that every carrier can be interconnected directly and exchange traffic on a bill-and-keep basis in as few common locations or points of interconnection (“POIs”) as possible.⁹ For this reason, T-Mobile continues to advocate that the FCC’s guiding principle in intercarrier compensation (“ICC”) reform should be the promotion of the IP Transition and full transition to bill-and-keep, not the preservation of legacy revenue sources and outdated networks for a subset of carriers at the expense of the public interest.¹⁰ T-Mobile opposes efforts to mandate direct connections not because T-Mobile opposes direct connections, but rather because such agreements turn the clock back on ICC reform and the IP Transition by: (i) requiring competitive carriers to establish a POI in each ILEC central office; (ii) imposing the full cost of connecting directly to a POI in each of the ILEC’s end offices solely on the competitive carrier; and (iii) stopping the transition to bill-and-keep so that ILECs can continue receiving legacy revenue streams.¹¹ T-Mobile continues to urge the FCC to eliminate all legacy ICC revenue streams, including those earned by Inteliquent,¹² and any suggestion that T-Mobile refuses to establish direct connections for the purpose of engaging in arbitrage is flatly false.

T-Mobile hopes that this filing will satisfy Mr. Macres’ demands for an on-the-record recitation of the facts and lead to a simple, but necessary, correction of the record in this proceeding. In any case, T-Mobile respectfully urges the Commission to look past this distraction and work with the industry and the states to promptly implement the ICC reforms that T-Mobile has proposed so that the outdated ICC rules no longer lead to unnecessary and wasteful intercarrier disputes of the sort at issue here. T-Mobile’s Safe Harbor POI Solution is the best way to jumpstart the stalled IP Transition and achieve the FCC’s goals of securing the full range of associated benefits for the public.

* * *

⁹ T-Mobile has advocated what it refers to as a “Safe Harbor POI Solution”—which is the establishment of no more than eight to ten POIs across the nation where all service providers could interconnect directly, or indirectly if they prefer, with all other service providers. *See generally, e.g.*, Comments of T-Mobile USA, Inc., WC Docket Nos. 10-90 & 07-135; CC Docket No. 01-92 (filed Oct. 26, 2017) (urging the FCC to adopt T-Mobile’s Safe Harbor POI Solution).

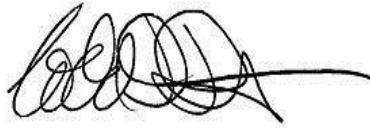
¹⁰ *See, e.g.*, Reply Comments of T-Mobile USA, Inc., WC Docket Nos. 10-90 & 07-135; CC Docket No. 01-92, at i-ii (filed Nov. 20, 2017). Mandating direct interconnection—or the establishment of POIs at central offices—would unnecessarily raise the cost of entry and force new entrants unnecessarily to replicate existing networks, which is why the law explicitly permits competitive carriers to choose where and how to interconnect. It would also perpetuate the robocall plague because terminating carriers would not be able to prevent certain carriers from dumping third-party robocalls into the PSTN.

¹¹ *See, e.g.*, T-Mobile Reply Comments at i.

¹² The elimination of all legacy ICC revenue streams and the adoption of T-Mobile’s Safe Harbor POI Solution would also eliminate most of the fraud that occurs when carriers earn revenue from third-party traffic they pass along for termination by other carriers for no cost, because these carriers have no incentive to ensure that such traffic is free from fraud or robocalls, particularly since they suffer no harm from traffic they neither originate nor terminate. For this reason, T-Mobile refuses to accept such third-party traffic through direct connections and has teamed with Inteliquent to implement innovative measures to dramatically reduce the amount of fraud and robocalls terminated to T-Mobile and its customers. Indeed, since T-Mobile and Inteliquent implemented these measures, T-Mobile has significantly reduced the amount of fraud and robocalls terminated to T-Mobile. Accordingly, the allegations in the December 20 Letter about the motives for T-Mobile refusing to accept third-party traffic over direct connections (*e.g.*, December 20 Letter at n.6) are false and misleading.

Please contact the undersigned if you have any questions or would like any additional information about the issues discussed herein.

Sincerely,

A handwritten signature in black ink, appearing to read 'Todd D. Daubert', with a long horizontal flourish extending to the right.

Todd D. Daubert
Counsel to T-Mobile USA, Inc.

cc (all via e-mail):

Philip Macres
Jay Schwarz
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